





TRAINER NOTES for RESTRICTED MATERIALS PERMITS and CERTIFICATION

<u>September 4, 1997</u>





INTRODUCTION

This Restricted Materials training package was born of the ENF Branch chief's desire to improve the quality of the county process. The emphasis is on a return to the requirements of AB3765 and the role of the permit process, including the NOI review, as a functional equivalent of an Environmental Impact Report. It is now twenty years since the California Environmental Quality Act passed into law and few of us were working at that time. Hence the refresher course. The requirements of last year's SB 800 and SB 802 have also been addressed.

The Training Liaison Committee (TLC) has noticed that many county biologists do not carry their codes with them into the field. In the belief that nobody can remember all details of all the codes, we encourage both county biologists and Senior Pesticide Use Specialists to bring their Pesticide Use Enforcement Manuals with them to our training sessions. When you deliver the "Training Manual for Restricted Materials Permits and Certification" and the associated work book please emphasize that biologists must bring their PUE manuals with them to the training.

We encourage you to carefully review the answers in these notes before you start training so that any uncertainties are discussed with the TLC and everyone delivers the same message.

Happy training!

EXERCISE 1 PERMIT REQUIRED OR NOT?

1.	Aluminum phosphide Yes
	§ 6400 (e) listed but not listed as exempt under §6400 (c)(2)
2.	Sevin bait (50 lbs bags) No
	§ 6400 (e)(1)
3.	Malathion dust (50 lbs bags) Yes
	§ 6400 (c)
4.	Copper dust
	§ 6400 (c)(1) listed § 6402 (g)
5.	Thiodan when labeled for industrial use No
	§ 6400 (e) Endosulfan exceptions.
6.	Simazine in 14S 21E 21 Fresno County by a certified applicator Yes
	Listed as "Potential to Pollute Ground Water in § 6400 (e)
	Section is listed in §6802.
7.	Diazinon by a private applicator No
	§ 6400 (a) Federally Restricted Use Pesticide see top of page 23 of the
	training manual.
8.	Diazinon by a licensed PCB
	§ 6400 (a) Federal Restricted Use Pesticide but § 6414(b) exempts
	certified commercial applicators.
9.	Mocap on turf by a private applicator Yes
	§ 6400(e) Ethoprop specifically for turf use labels.
10.	Mocap on turf by a licensed maintenance gardener Yes
	§ 6400(e) Ethoprop specifically for turf use labels. No exceptions.

EXERCISE 2. AGRICULTURAL AND NONAGRICULTURAL PESTICIDE USES

	Site	AG US	SE	NONAG USE
		Production Ag	Non- Production Ag	
1.	Crop Production	~		
2.	Auditoriums			~
3.	Aquaculture Production		V	
4.	Under prescription of a veterinarian			7
5.	Parks		~	
6.	Forest Production	~		
7.	Hospitals			~
8.	Ditch banks		'	
9.	Airports		✓	
10.	Golf Courses		/	
11.	Livestock Production		/	
12.	Libraries			~
13.	Poultry Production		/	
14.	Homes & Residences			✓
15.	Field Borders & Headlands		V	
16.	Post Harvest Commodity Treatment in the field	V		
17.	Post Harvest Commodity Treatment in a packing shed			~

	SITE	AG USE		NON- AG USE
		Production ag	Non-prod- uction ag	
18.	School Football Field			V
19.	Greenhouse Production	V		
20.	Structural			'
21.	Right-of-Way		/	
22.	Office Complexes			V
23.	Ranchette Pasture			V
24.	Condominium Greenbelt Area			'
25.	Railroad Shoulders		'	
26.	Vacant Lots			V
27.	Highway Medians		V	
28.	Sewage Treatment Plant			~
29.	Mobile Home Parks			~
30.	Club House Landscape			~
31.	Office Parking Lots			V
32.	Around oil wells			'
33.	Food Manufacturing Plant			~
34.	Grain Elevators			~
35.	Enclosed Shopping Malls			'
36.	Pasture		'	

	SITE	AG US	E	NONAG USE
		Production ag	Non-prod- uction ag	
37.	Sewer Lines			~
38.	Seed Treatment			~
39.	Janitorial Services		,	~
40.	Outside Restaurants			~
41.	Packing Shed			~
42.	Municipal Water Treatments			~
43.	Fallow Fields		~	
44.	Building Construction Sites			~
45.	Retail Nurseries (Non-propagation)			~
46.	School Playground			~
47.	Paper Mill			~
48.	Lumber Yard			~
49.	Apiaries		V	
50.	Rangeland		~	
51.	Lakes, Rivers & Streams		V	
52.	Wood Treatment Plant			~
53.	Boats at a Ship Yard			~
54.	Cemeteries		V	
55.	Swimming Pools			~
56.	Mosquito Abatement Districts			V

EXERCISE 3. LOBLOLLY CITY GOLF COURSE PERMIT.

Go through your copy of the Work Book and highlight the corrections.

What's wrong?

- 1. Private applicator. Should be Qualified Applicator Certificate.
- 2. Possession only. Should be for possession and use.
- 3. Job permit/Expiration 5/99. Should be seasonal or up to three years.
- 4. NonAg. Should be ag permit-golf course is ag.
- 5. Strychnine for bird control. Strychnine is not allowed above ground.
- 6. Method air. Should only be applied by ground.
- 7. Applicator grower. Should be manager, QAC employee.
- 8. Non-ag Use justification. Not applicable.
- 9. Conditions. Not allowed.
- 10. Employees handle pesticides. Should be yes.
- 11. "West of oak tree" is not specific enough for an ag permit.

NOTES.

YOUR COUNTY AGRICULTURAL COMMISSIONER 9999 SOUTH NORTH AVENUE YOUR TOWN, CA 99999-9999

Office: (999)999-9999 Recorder (NOI) (999)999-9999 FAX: (999)999-9999

RESTRICTED MATERIALS PERMIT LOBLOLLY CITY GOLF COURSE P.O.BOX 9999 BRISTLECONE, CA 99999	PERMIT #: 59-97-999999 Expiration Date: 05/14/99 Effective Date: 05/15/97
P.O.BOX 9998 Fax	ice: 800-WE-GOLF Shop: 800-19T-HOLE x: 999.999.99996 obile: 999.999.99998
Permittee Type Permit Type Possession	NOI Method of Submission
Private App X	Phone
Numb Pesticide Pest(s) Form. Method	d(s) Applicator(s)
5540 STRYCHNINE 6 BIRDS ALL RES Non-Ag Use: Seagulls destroying greens. Conditions: Remove dead birds. 9	
I understand that this permit blah, blah, blah etc. Permit Applicant: VIRGINIA LIMBER Title: MANAGER Issuing Officer: CONRAD D.FUSED	Sign: <u>Virginia Limber</u> Issue Date: <u>5/15/97</u> Issue Date: <u>5/15/97</u>
Employees handle pesticides (Y or N) N © Site # Location/Site Narrative Dist Sect Tog Quant Unit Condition	wn Range Meridian Page 2
N/A SE of Dominion & Orcutt/Gary SM 10 West of Oak Tree Rights-of-Way (Code: 40-0) 2 5540	0 09N 33 S 00 A ALL

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EXERCISE # 4 NOI REVIEW FOR ENF FARMS

Comments: Restrict to Block 2 only by air due to the proximity of the labor camp, high school and residential areas. Deny for Block 1 as per Condition #1.

Denied

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EXERCISE # 4 NOI REVIEW FOR ENF FARMS

Comments: Deny NOI until Carbaryl is added to permit. Carbaryl is not on the permit at present.

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EXERCISE # 4 NOI REVIEW FOR ENF FARMS

Comments: Restrict to Block 2 only by air. Deny for Block 1 as per conditions 1 & 2 on the permit.

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EXERCISE # 5 NOI REVIEW FOR SIERRA HIGH SCHOOL

Comments: Deny NOI because proposed application is within $\frac{1}{2}$ mile of susceptible crops after march 15. 3CCR §6464.

EXERCISE 6. WHAT PERMIT AND CERTIFICATION IS REQUIRED?

- 1. A golf course owner/operator wants to apply a phenoxy herbicide to the fairways of his golf course. What permit and certification is required?

 QAC OR QAL NOT PA. Ag use non-production permit.
- 2. An almond grower and processor wants to bring almonds from neighboring growers for processing at his facility which is <u>not</u> cooperatively owned. After the almonds arrive he learns that they have not been fumigated. The grower offers to fumigate the almonds as part of his processing service. What certification is required?

 OAL
- An walnut grower and processor purchases walnuts from neighboring growers and transports them into his processing facility. What certification is necessary for fumigation?

 OAC or OAL
- 4. A grower wants to fumigate a commodity he produced on his property after it was harvested and tarped on site. What certification is needed?

PA

5. The head grounds person at a high school wants to treat the baseball field with a restricted herbicide around the picnic area. What certification is required?

QAC OR QAL

- 6. A well-known amusement park applies for a permit for a restricted herbicide. What certification is required? Is this application ag or institutional? QAC OR QAL, Institutional
- 7. A cemetery wants a Restricted Material applied by a professional landscaping business. What certification does the cemetery manager need? What permit does she need? **NONE**, **Ag use non-production**.
- 8. A homeowner wants a Restricted Material applied to her property by a PCB. Does she need a permit? Does she need to be certified?

 NO and NO

NOTES:

CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION



The purpose of this training is to give inspectors an overview of the Restricted Materials process and the private applicator certification process. The training includes an historical perspective and the latest regulations.

HISTORY (1)

ে HISTORY (1)

- 1938 Imperial County restricted some pesticides
- 1949 Injurious Herbicides and Injurious Materials
- · by the state
- · as a result of 2,4-D drift
- · onto grapes and cotton
- in the Central Valley

Issuing a Restricted Materials permit is more than just a rubber stamp, rote procedure. Rather it includes an evaluation which is the functional equivalent of an Environmental Impact Report (EIR).

Some of us remember the process before AB3765 while others of us did not live through it and may not be aware of its significance. Have participants raise their hand if they were inspectors when AB 3765 passed.

EVENTS LEADING UP TO AB3765 (1)



EVENTS LEADING UP TO AB3765 (1)

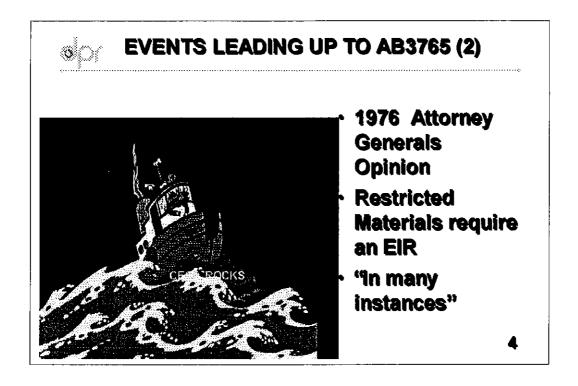


- National Environmental Protection Act NEPA
- California Environmental Quality Act CEQA

3

The National Environmental Protection Act preceded the California Environmental Quality Act. The state law requires an Environmental Impact Report for those activities which may have adverse environmental effects. Question: Do pesticide applications have adverse environmental impacts? You may discern some interesting attitudes if you ask that question.

EVENTS LEADING UP TO AB3765 (2)

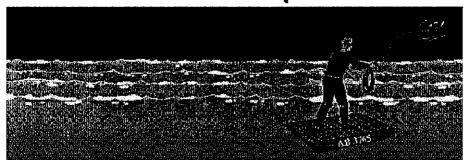


So when the Attorney General, Evelle Younger, issued his opinion that pesticide applications did have adverse effects on the environment "in many cases" it meant that an EIR was required for each application. That was obviously a prohibitive condition.

EVENTS LEADING UP TO AB3765 (3)

EVENTS LEADING UP TO AB3765 (3)

- 1977 Environmental Assessment Team formed
- December, 1977 EAT failed
- 1978 CEQA amended by AB 3765
- Allows for "Functional Equivalent" of an EIR



Governor Brown formed the Environmental Assessment Team (EAT) to produce a generic EIR. It was headed by Rose Bird. The EAT published an enormous volume of work in a short period of time but failed to produce a generic EIR.

The California Environmental Quality Act (CEQA) was amended by AB 3765 to allow for a process which is the "functional equivalent" of an EIR.

AB3765 Requirements (1)



AB3765 Requirements (1)

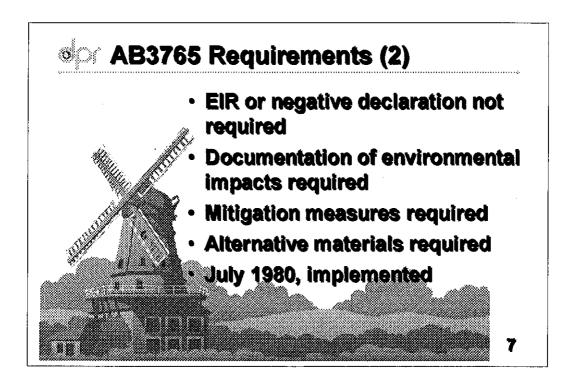
- Plan addresses
 - Registration, evaluation, classification of pesticides
 - Licensing and registration of dealers, PCB's, PCA's
 - Monitoring of pesticide use, human health and environmental effects

6

Biologists must follow the procedures to ensure that the process is indeed the functional equivalent of an EIR.

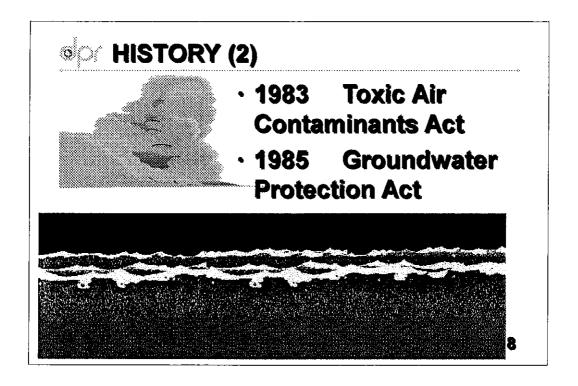
Pre-application site inspections are an integral part of the process to make it equivalent to an EIR.

AB3765 Requirements (2)



Biologists must carefully consider mitigation measures and possible alternative measures. It is not the commissioners responsibility to find alternative measures.

HISTORY (2)



The Toxic Air Contaminants Act has an impact on the registration process. It relates to Volatile Organic Compounds (VOC's).

The Groundwater Protection Act governs materials which have leached or have a potential to leach into wells.

CERTIFICATION - What's new?



CERTIFICATION - What's new?

Private applicater : Fernit

- Permit issuance and private applicator certification
- Separate

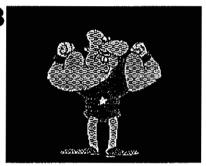
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At this time (July, 1997) the regulations have not gone to the Office of Administrative Law) We will include the latest version of them in the manual with strikeouts and underlines to indicate that they are not adopted. The law was passed last year and is included as enacted.

WHAT CERTIFICATION AND PERMIT ARE REQUIRED?

WHAT CERTIFICATION AND PERMIT ARE REQUIRED?

- Work Book page 3
- · Exercise 1



10

You have the answers in your Trainer Notes. Divide the trainees into groups of three or four to allow the more experienced and knowledgeable biologists to help others. Allow plenty of time for this exercise. Trainees get tense if they are rushed. Walk around and see that everyone understands the questions. Wait till the majority have completed the exercise before going over the answers.

Continuing Education

ে Continuing Education



- 6 hours continuing education every three years for growers
- · 2 hours for each year
- · Or take and pass exam

11

SB 800 has given us some significant changes including these. Those Certified Private Applicators who are for one or two years, need two hours continuing education for each year. That is certification for 1 year requires 2 hours CE, 2 years certification requires 4 hours CE, and 3 years certification requires 6 hours CE.

Employee certification

ା Employee certification

- Private applicator certificate for employees
- · of producers of ag commodities
- with written authorization
- permit becomes invalid when employee leaves employer

12

The biggest change is that the certification process is now separate from the permit process. They are independent of each other. A permittee does not have to be certified. A certified person does not have to be the permittee. But note that if a certified applicator signs the permit and then leaves the employment of the grower, the permit is invalid and a new certified applicator is needed to sign the permit.

New definitions



New definitions

- Authorized representative
- Operator of property
- · Person
- · Private applicator
- · RMP applicant

13

RESTRICTED MATERIALS PERMIT EVALUATION

RESTRICTED MATERIALS PERMIT EVALUATION

- To review the legality of the application
- To assess the environmental impact.
 - Time specific (Ag use)
 - Site specific (Ag use)
- · To condition the permit with -
 - mitigation of adverse effects or
 - feasible alternatives.
- To provide for safety of people, their food, and the environment.

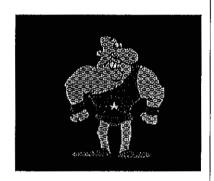
14

Go through this process thoroughly. Biologists must know that the site specific and time specific requirements are part of the EIR equivalency process. They must also consider standard conditions and specific conditions. Mitigation measures require an excellent map and an intimate knowledge of the treatment site and surrounding area.

AG USE AND NON-AG USE

S AG USE AND NON-AG USE

- · Ag Use
 - See page 13 of your manual.
- · Non-Ag Use
 - See page 16 of your manual.
- · Work Book pages 4-6
- · Exercise 2.



15

This is where the most mistakes are made.

A key provision is that ag use includes rights-of-ways. Split them into groups again. Go over the answers and see how close they came to agreeing with us.

PERMIT REQUIREMENTS (1)



PERMIT REQUIREMENTS (1)

- Permits issued by a qualified biologist
- To the responsible person -
 - Ag operator of the property
 - Owner or authorized representative
 - Non-ag operator of property or PCB

16

Remember that the required information that is not on the permit application must be on the NOI. The NOI is an integral part of the "functional equivalency".

PERMIT REQUIREMENTS (2)



PERMIT REQUIREMENTS (2)

- Location of sites and sensitive areas defined
- Site, pest, pesticide, method, PCB, time
- Signatures permittee and CAC biologist
- Date signed and time period valid

17

Note: Non-ag permits do not need to be site or time specific.

WHAT IS WRONG?



WHAT IS WRONG?

- Pages 7 & 8 of your Work Book
- · Exercise 3



18

Another group exercise. You will undoubtedly get some very idiosyncratic answers in counties where they use their own system. We are trying to hit the high spots. You have our answers on pages 6 & 7 of your Trainer Notes. They are listed on page 6 and numbered in position on page 7.

NOTICE OF INTENT



NOTICE OF INTENT

- NOI provides information not known at permit time
- NOI is part of the permit process
- NOI can be used to provide only certain information
 - Time of application, PCB. method
 - 24 hours prior notice,
 - · CAC can allow shorter time or require longer time
- NOI may be submitted by PCB or authorized rep
 - · But permittee is responsible

19

Points to emphasize. The NOI is part of the CEQA "functional equivalency".

Only the listed information may be left off the permit if it is on the NOI.

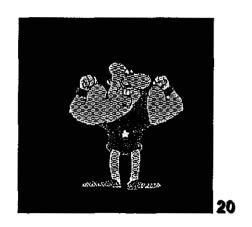
The permittee is ultimately responsible.

Section 6434 (b) states "at least 24 hours" but the commissioner may allow less. "At least" also allows the commissioner to require more than 24 hours.

NOI REVIEW - ENF FARMS



- Pages 9-15 in your Work Book
- · Exercise 4



You want to know if the biologist approves or denies each NOI. Any denials must have a reason or cause given.

Do this as a group exercise.

PERMIT EVALUATION

PERMIT EVALUATION

- CAC is responsible for knowing local conditions and utilizing that knowledge
- I.D. sensitive areas
- Consider mitigating measures and alternatives
- Require PCA recommendation
- No application

21

Emphasize the need to evaluate each permit application. Inspectors should check for schools, hospitals, parks, new construction, crops, residences, water bodies, livestock, labor camps, apiaries etc. What else has changed since the last permit. It is the permittee's responsibility to let the biologist know of environmental changes.

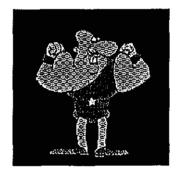
In considering mitigating measures and alternatives think of alternative pesticides, methods, timing, non-pesticides and IPM.

Care at this stage can prevent a lot of trouble later.

NOI REVIEW - SIERRA HIGH



- Work Book pages 16-18
- · Exercise 5



22

Group exercise. You want them to record their decision to approve or deny the NOI.

Discuss the reasons for their decisions and compare with our answer.

PERMIT DENIAL



OF PERMIT DENIAL

- Deny a permit if:
 - · Pesticide is not registered for the site
 - · There is a feasible alternative
 - Hazard cannot be mitigated
 - Label requirements cannot be met
 - Regulatory requirements cannot be met
 - All permit denials must be documented

23

Discuss the type of permits that these biologists deny. Emphasize the need to record all denials even those where one chemical on one site is denied while the rest of the permit application is approved.

See appendix page 36 for a suggested Permit Denial form.

PERMIT MONITORING



PERMIT MONITORING

- Statistical program for monitoring sites
 - Monitor violators more frequently
 - Monitor no less than 5% of ag sites
 - Monitor each non-ag permittee at least once a year
 - Stop application if not in compliance with CFAC § 14006.5

24

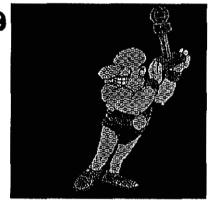
Pre-application site inspections. This is a good time to get some feed-back on the new form PR-ENF-044. How is it working? What do they like about it? What improvements could we make?

Note the difference between ag and non-ag. The commissioner may require an NOI until the first inspection of the year for non-ag permit applicants.

WHAT ARE PERMIT AND CERTIFICATION REQUIREMENTS?

WHAT ARE PERMIT AND CERTIFICATION REQUIREMENTS?

- Work Book page 19
- · Exercise 6



25

The final exercise.

Ask for their reasoning when their answers differ from ours.

CFAC § 14006.5 REQUIREMENTS



♥ CFAC § 14006.5 REQUIREMENTS

- Biologist to consider:
 - Sensitive areas
 - Heterogenous crops
 - Resurgence of secondary pest problems
 - Weather
 - Bees
 - Storage and disposal

26

These are the things for biologists to consider. The most resistance will come against consideration of pest conditions. County staff are reluctant to make decisions which increase their liability.



Are there any final questions?

The next training package will be on two forms, PR-ENF-011 Structural Pest Control Inspections and PR-ENF144 Fumigation Use Monitoring Inspections. Please forward all suggestions for improvements to those forms to Don Shephard. E-mail DONS@CDPR.CA.GOV

This slide is in celebration of the short career of Department Counsel, Vickie Gall.